

1 Kelly R. Kichline
2 Nevada State Bar No. 10642
3 **MGM RESORTS INTERNATIONAL**
4 6385 S. Rainbow Blvd., Suite 500
5 Las Vegas, Nevada 89118
6 Tel: (702) 692-5651
7 Email: kkichline@mgmresorts.com

8 *Attorney for Defendant*
9 *MGM Grand Hotel, LLC*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 SALVADOR A. LIBUTAN, an Individual
13 Plaintiff,

14 vs.

15 MGM GRAND HOTEL LLC, a Domestic
16 Limited-Liability Company.
17 Defendants.

Case No.: 2:20-cv-00304-RFB-NJK

**JOINT MOTION TO TEMPORARILY
STAY PROCEEDINGS**

18 Plaintiff Salvador A. Libutan (“Plaintiff”) and Defendant MGM Grand Hotel, LLC
19 (“Defendant” or “MGM Grand”), by and through their counsel of record, jointly request this Court to
20 temporarily stay discovery and all proceedings in this case until June 1, 2020, which is a period of
21 sixty-nine (69) days from the date this joint motion is being filed.

22 **I. STATEMENT OF FACTS**

23 **1. Procedural History of This Case.**

24 Plaintiff’s Complaint was filed on February 12, 2020 (ECF No. 1) and served on Defendant on
25 February 18, 2020. *See* ECF No. 6.

26 On March 10, 2020, Defendant filed a Partial Motion to Dismiss Plaintiff’s Complaint
27 (“Motion to Dismiss”), ECF. No. 8. Plaintiff’s Response to the Motion to Dismiss is presently due to
28 be filed by March 24, 2020.

The parties’ Discovery Plan and Proposed Scheduling Order is presently due to be filed by
April 24, 2020 (*see* Docket 8); thus, no scheduling order has yet been entered, nor have any other dates
yet been scheduled by the Court in this case.

1 **2. Events Since Defendant’s Motion to Dismiss Was Filed.**

2 On March 11, 2020, the World Health Organization (“WHO”) publicly characterized the
3 Coronavirus (COVID-19) as a pandemic. *See* [https://www.who.int/dg/speeches/detail/who-director-](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020)
4 [general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020) (accessed March 21,
5 2020).

6 On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency for the State
7 of Nevada. *See* [http://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2020/Declaration](http://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2020/Declaration%20of%20_Emergency%20re%20COVID.pdf)
8 [%20of%20_Emergency%20re%20COVID.pdf](http://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2020/Declaration%20of%20_Emergency%20re%20COVID.pdf) (accessed March 21, 2020).

9 On March 13, 2020, President of the United States Donald Trump declared a nationwide
10 emergency. *See* COVID-19 Declaration of Emergency Directive 002,
11 [http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/)
12 [Emergency_Directive_001/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/) (accessed March 21, 2020).

13 Effective March 17, 2020, MGM Grand closed for an undetermined period of time and
14 currently remains closed. *See* [https://investors.mgmresorts.com/investors/news-releases/press-release-](https://investors.mgmresorts.com/investors/news-releases/press-release-details/2020/MGM-Resorts-International-Statement-On-Temporary-Closure-Of-Las-Vegas-Properties/default.aspx)
15 [details/2020/MGM-Resorts-International-Statement-On-Temporary-Closure-Of-Las-Vegas-](https://investors.mgmresorts.com/investors/news-releases/press-release-details/2020/MGM-Resorts-International-Statement-On-Temporary-Closure-Of-Las-Vegas-Properties/default.aspx)
16 [Properties/default.aspx](https://investors.mgmresorts.com/investors/news-releases/press-release-details/2020/MGM-Resorts-International-Statement-On-Temporary-Closure-Of-Las-Vegas-Properties/default.aspx) (accessed March 21, 2020).

17 On March 18, Governor Sisolak ordered all gaming establishments, including MGM Grand, to
18 close until at least April 16, 2020. *See* COVID-19 Declaration of Emergency Directive 002,
19 [http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/)
20 [Emergency_Directive_002/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/) (accessed March 21, 2020).

21 On March 20, 2020, Governor Sisolak directed non-essential businesses to close until at least
22 April 16, 2020. *See* COVID-19 Declaration of Emergency Directive 003, [http://gov.nv.gov/News/](http://gov.nv.gov/News/Emergency_Orders/Emergency_Orders/)
23 [Emergency_Orders/Emergency_Orders/](http://gov.nv.gov/News/Emergency_Orders/Emergency_Orders/) (accessed March 21, 2020).

24 **II. LEGAL STANDARD**

25 “District courts have discretion to stay the proceedings before them in light of their inherent
26 power to control their own dockets and promote judicial economy.” *Robben v. Carson City*, No. 3:13-
27 cv-0438-RFB-VPC, 2016 U.S. Dist. LEXIS 52197, at *2-3 (D. Nev. Apr. 19, 2016) citing *Lockyer v.*
28

1 *Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005); *Landis v. North Am. Co.*, 299 U.S. 248, 255 (1936).
2 Although stays are disfavored, a stay may be granted when the request is for a limited duration, with a
3 defined end point, and the risk of harm to another party is absent. *Dependable Highway Express, Inc.*
4 *v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007). This is a joint motion by the parties and,
5 therefore, no prejudice to either party will result from the granting of the stay requested.

6 Navigating the COVID-19 local, national, and global public health emergency has imposed an
7 enormous drain upon MGM Grand's resources. This unprecedented disruption in MGM Grand's
8 business would cause extreme difficulty in its participation in an Early Neutral Evaluation, which will
9 be required pursuant to LR 16-6. Moreover, the unavailability of witnesses and documents due to the
10 closure of MGM Grand will significantly infringe on both parties' ability to "meaningfully participate
11 in the discovery process," which is an appropriate basis for staying proceedings. *Sears v. Russell Rd.*
12 *Food & Bev.*, No. 2:19-cv-01091-APG-NJK, 2020 U.S. Dist. LEXIS 44385, at *4 (D. Nev. Mar. 13,
13 2020).

14 Until present, Governor Sisolak has stopped short of ordering Nevadans to "shelter in place,"
15 which would prohibit persons from leaving their homes except in certain extremely narrow and specific
16 circumstances; however, this public health emergency and the attendant limitations have been fluid,
17 sometimes changing dramatically from one day to the next.¹ The situation is expected to continue to
18 worsen in the immediate future. For these reasons, the parties submit that these extenuating
19 circumstances make a stay of proceedings appropriate in this case. Cf. *Parkway Gallery Furniture,*
20 *Inc. v. Kittinger/Pennsylvania House Group, Inc.*, 116 F.R.D. 363, 365-66 (M.D.N.C. 1987) ("Good
21 cause" shown when there are "extenuating circumstances."); *Johnson v. Mammoth Recreations*, 975
22 F.2d 604, 610 (9th Cir. 1992).

23 The parties further request that the due date for Plaintiff's response to Defendant's Motion to
24 Dismiss be set for 14 days from the latter of: June 1, 2020; or, until the date that any stay this Court
25 may grant has been lifted.

26 ¹ Further, local, state and federal authorities have emphasized the need for social distancing and urged persons
27 to avoid human contact. See, e.g., <https://www.osha.gov/Publications/OSHA3990.pdf>;
28 [http://www.clarkcountynv.gov/public-communications/news/Pages/Clark-County-Closing-Most-Buildings-](http://www.clarkcountynv.gov/public-communications/news/Pages/Clark-County-Closing-Most-Buildings-Wednesday-Due-to-Coronavirus-Concerns.aspx)
[Wednesday-Due-to-Coronavirus-Concerns.aspx](http://www.clarkcountynv.gov/public-communications/news/Pages/Clark-County-Closing-Most-Buildings-Wednesday-Due-to-Coronavirus-Concerns.aspx).

1 **III. CONCLUSION**

2 The undersigned counsel certify and represent that this request for a stay is submitted in good
3 faith and is not intended to cause unnecessary burden or delay. For good cause shown, the parties
4 jointly request this Court to stay discovery and all proceedings in this case until June 1, 2020.

5 Dated: March 22, 2020

6
7 **HKM EMPLOYMENT ATTORNEYS LLP MGM GRAND HOTEL LLC**

8
9 By: /s/Jenny L. Foley

By: /s/ Kelly R. Kichline

10 Jenny L. Foley, Bar #9017)
11 Marta D. Kurshumova, Bar #14728)
12 1785 East Sahara, Suite 300
13 Las Vegas, Nevada 89104
Telephone: (702) 625-3893
Email: jfoley@hkm.com
Email: mkurshumova@hkm.com

Kelly R. Kichline, Bar #10642
6385 S. Rainbow Blvd., Suite 500
Las Vegas, NV 89118
Telephone: (702) 692-5651
Email: kkichline@mgmresorts.com

14 *Attorneys For Plaintiff*
15 *Salvador Libutan*

Attorney for Defendant
MGM Grand Hotel, LLC

16 IT IS SO ORDERED:

17
18
19 
20 RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

21 DATED this 24th day of March, 2020.
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

Jenny L. Foley
Marta D. Kurshumova
1785 East Sahara, Suite 300
Las Vegas, Nevada 89104
Telephone: (702) 625-3893
Email: jfoley@hkm.com
Email: mkurshumova@hkm.com

/s/ Kelly R. Kichline